

**HOMELESS SERVICES AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Steve Eliason**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE****General Description:**

This bill modifies provisions related to the oversight and provision of services for individuals experiencing homelessness.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies the membership of the Utah Homelessness Council (council);
- ▶ establishes a formula for the Office of Homeless Services' (office's) disbursement of funds to municipalities that are approved by the council to receive funds from the Homeless Shelter Cities Mitigation Restricted Account (account);
- ▶ removes provisions allowing the office to provide grants from the account;
- ▶ allows a municipality to use account funds to mitigate the impacts of certain shelters;
- ▶ modifies provisions related to the process for municipalities to request account funds;
- ▶ requires the council to consider certain factors in determining whether to approve or deny a municipality's request for account funds;
- ▶ removes provisions requiring the office to make recommendations to the Legislature regarding a municipality's request for account funds;
- ▶ requires certain councils of governments to annually prepare and submit to the



office an overflow plan that establishes plans for temporary overflow shelters within the county during a specified period of time;

- requires the office to review the overflow plan to determine whether the plan is sufficient for the provision of services for homeless individuals during a specified period of time;

- prohibits certain municipalities from limiting the capacity of certain homeless shelters below the capacity allowed under the fire code during a specified period of time if the office does not receive a sufficient overflow plan;

- prohibits certain municipalities from restricting an entity from operating a temporary overflow shelter from a facility owned or operated by the entity during a specified period of time if the office does not receive a sufficient overflow plan;

- allows certain homeless shelters to serve a number of homeless individuals to the extent allowed under the fire code during a specified period of time if the office does not receive a sufficient overflow plan;

- allows the office to contract with an entity to operate a temporary overflow shelter from a state facility during a specified period of time if the office does not receive a sufficient overflow plan; and

- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**35A-16-203**, as enacted by Laws of Utah 2021, Chapter 281

**35A-16-204**, as enacted by Laws of Utah 2021, Chapter 281

**59-12-205**, as last amended by Laws of Utah 2021, Chapter 281

ENACTS:

**10-8-52.5**, Utah Code Annotated 1953

**35A-16-401**, Utah Code Annotated 1953

**35A-16-501**, Utah Code Annotated 1953

59           **35A-16-502**, Utah Code Annotated 1953

60           **35A-16-503**, Utah Code Annotated 1953

61           **35A-16-504**, Utah Code Annotated 1953

62   RENUMBERS AND AMENDS:

63           **35A-16-402**, (Renumbered from 35A-16-304, as renumbered and amended by Laws of  
64   Utah 2021, Chapter 281)

65           **35A-16-403**, (Renumbered from 35A-16-305, as renumbered and amended by Laws of  
66   Utah 2021, Chapter 281)

67           **35A-16-404**, (Renumbered from 35A-16-307, as renumbered and amended by Laws of  
68   Utah 2021, Chapter 281)

69   REPEALS:

70           **35A-16-306**, as renumbered and amended by Laws of Utah 2021, Chapter 281

71           **63J-1-801**, as last amended by Laws of Utah 2021, Chapter 281

72           **63J-1-802**, as last amended by Laws of Utah 2021, Chapter 281

73

74   *Be it enacted by the Legislature of the state of Utah:*

75           Section 1. Section **10-8-52.5** is enacted to read:

76           **10-8-52.5. Prohibition on ordinances affecting homeless shelters during certain**  
77 **overflow periods.**

78           (1) As used in this section:

79           (a) "Capacity limit" means a limit as to the number of homeless individuals that a  
80 homeless resource center may provide overnight shelter to.

81           (b) "Homeless resource center" means a facility that:

82           (i) provides temporary shelter to homeless individuals;

83           (ii) has the capacity to provide temporary shelter to at least 200 individuals per night;

84           (iii) operates year-round; and

85           (iv) is not subject to restrictions that limit the hours, days, weeks, or months of  
86 operation.

87           (c) "Notice of noncompliance" means the notice described in Subsection

88 **35A-16-503(2).**

89           (d) "Overflow period" means the period beginning October 1 and ending April 30 of

the following year.

(e) "Subsequent overflow period" means the overflow period that begins on October 1 of the year in which the Office of Homeless Services sends a notice of noncompliance.

(f) "Temporary overflow shelter" means a facility that:

(i) provides temporary emergency shelter to homeless individuals during an overflow period; and

(ii) does not operate year-round.

(2) Notwithstanding any other provision in this title, if a municipality located within a county of the first class receives a notice of noncompliance from the Office of Homeless Services, the municipality may not, during the subsequent overflow period:

(a) enact or enforce an ordinance that imposes a capacity limit on a homeless resource center located within the municipality's boundaries that is more restrictive than the capacity limit allowed under the applicable fire code; or

(b) enact or enforce an ordinance that restricts an entity from operating a temporary overflow shelter from a facility owned or operated by the entity.

Section 2. Section **35A-16-203** is amended to read:

**35A-16-203. Powers and duties of the coordinator.**

(1) The coordinator shall:

(a) coordinate the provision of homeless services in the state;

(b) in cooperation with the homelessness council, develop and maintain a comprehensive annual budget and overview of all homeless services available in the state, which homeless services budget shall receive final approval by the homelessness council;

(c) in cooperation with the homelessness council, create a statewide strategic plan to minimize homelessness in the state, which strategic plan shall receive final approval by the homelessness council;

(d) in cooperation with the homelessness council, oversee funding provided for the provision of homeless services, which funding shall receive final approval by the homelessness council, including funding from the:

(i) Pamela Atkinson Homeless Account created in Section [35A-16-301](#);

(ii) Homeless to Housing Reform Restricted Account created in Section [35A-16-303](#);

and

(iii) Homeless Shelter Cities Mitigation Restricted Account created in Section  
[~~35A-16-304~~] 35A-16-402;

(e) provide administrative support to and serve as a member of the homelessness  
council;

(f) at the governor's request, report directly to the governor on issues regarding  
homelessness in the state and the provision of homeless services in the state; and

(g) report directly to the president of the Senate and the speaker of the House of  
Representatives at least twice each year on issues regarding homelessness in the state and the  
provision of homeless services in the state.

(2) The coordinator, in cooperation with the homelessness council, shall ensure that the  
homeless services budget described in Subsection (1)(b) includes an overview and coordination  
plan for all funding sources for homeless services in the state, including from state agencies,  
Continuum of Care organizations, housing authorities, local governments, federal sources, and  
private organizations.

(3) The coordinator, in cooperation with the homelessness council, shall ensure that the  
strategic plan described in Subsection (1)(c):

(a) outlines specific goals and measurable benchmarks for minimizing homelessness in  
the state and for coordinating services for individuals experiencing homelessness among all  
service providers in the state;

(b) identifies best practices and recommends improvements to the provision of services  
to individuals experiencing homelessness in the state to ensure the services are provided in a  
safe, cost-effective, and efficient manner;

(c) identifies best practices and recommends improvements in coordinating the  
delivery of services to the variety of populations experiencing homelessness in the state,  
including through the use of electronic databases and improved data sharing among all service  
providers in the state; and

(d) identifies gaps and recommends solutions in the delivery of services to the variety  
of populations experiencing homelessness in the state.

(4) In overseeing funding for the provision of homeless services as described in  
Subsection (1)(d), the coordinator:

(a) shall prioritize the funding of programs and providers that have a documented

history of successfully reducing the number of individuals experiencing homelessness, reducing the time individuals spend experiencing homelessness, moving individuals experiencing homelessness to permanent housing, or reducing the number of individuals who return to experiencing homelessness; and

(b) except for a program or provider providing services to victims of domestic violence, may not approve funding to a program or provider that does not enter into a written agreement with the office to collect and share HMIS data regarding the provision of services to individuals experiencing homelessness so that the provision of services can be coordinated among state agencies, local governments, and private organizations.

(5) In cooperation with the homelessness council, the coordinator shall update the annual statewide budget and the strategic plan described in this section on an annual basis.

(6) (a) On or before October 1, the coordinator shall provide a written report to the department for inclusion in the department's annual written report described in Section 35A-1-109.

(b) The written report shall include:

(i) the homeless services budget;

(ii) the strategic plan; and

(iii) recommendations regarding improvements to coordinating and providing services to individuals experiencing homelessness in the state.

Section 3. Section 35A-16-204 is amended to read:

**35A-16-204. Utah Homelessness Council.**

(1) There is created within the office the Utah Homelessness Council.

(2) The homelessness council shall consist of the following members:

(a) a representative of the public sector with expertise in homelessness issues, appointed by the Legislature;

(b) a representative of the private sector, appointed by the Utah Impact Partnership or the partnership's successor organization;

(c) a representative of the private sector with expertise in homelessness issues, appointed by the governor;

(d) a statewide philanthropic leader, appointed by the governor;

(e) a statewide philanthropic leader, appointed by the Utah Impact Partnership or the

partnership's successor organization;

(f) the mayor of Salt Lake County;

(g) the mayor of Salt Lake City;

(h) the mayor of Midvale;

(i) the mayor of South Salt Lake;

(j) the mayor of Ogden;

(k) the mayor of St. George;

(l) the executive director of the Department of Health and Human Services, or the executive director's designee;

(m) the ~~[executive director of the Department of Health, or the executive director's]~~ commissioner of public safety, or the commissioner's designee;

(n) the executive director of the Department of Corrections, or the executive director's designee;

(o) the executive director of the Department of Workforce Services, or the executive director's designee;

(p) the executive director of the Governor's Office of Planning and Budget, or the executive director's designee;

(q) a member of the Senate, appointed by the president of the Senate;

(r) a member of the House of Representatives, appointed by the speaker of the House of Representatives;

(s) the state superintendent of public instruction or the superintendent's designee;

(t) a faith-based leader in the state, appointed by the governor;

(u) five local representatives~~[, including at least two private providers of services for people experiencing homelessness,]~~ appointed by the steering committee of the Utah Homeless Network, of which at least two are private providers of services for people experiencing homelessness;

(v) one individual who has experienced homelessness, appointed by the governor; and

(w) the coordinator.

(3) The member appointed under Subsection (2)(a) and the member appointed under Subsection (2)(b) shall serve as the cochairs of the homelessness council.

(4) The following ~~[eight]~~ nine members of the homelessness council shall serve as the

executive committee of the homelessness council:

- (a) the cochaIRS of the homelessness council as described in Subsection (3);
- (b) the private sector representative appointed under Subsection (2)(c);
- (c) the statewide philanthropic leader appointed under Subsection (2)(d);
- (d) the statewide philanthropic leader appointed under Subsection (2)(e);
- (e) the mayor of Salt Lake County;
- (f) a mayor chosen among the member mayors described in Subsections (2)(g) through (2)(k), appointed by the member mayors; ~~[and]~~
- (g) a local representative chosen among the local representatives described in Subsection (2)(u), appointed by the cochaIRS of the homelessness council; and
- ~~[(g)]~~ (h) the coordinator.

(5) The cochaIRS and the executive committee may call homelessness council meetings and set agendas for ~~[committee]~~ meetings.

(6) The homelessness council shall meet at least four times per year.

(7) A majority of members of the homelessness council constitutes a quorum of the homelessness council at any meeting, and the action of the majority of members present constitutes the action of the homelessness council.

(8) A majority of members of the executive committee constitutes a quorum of the executive committee at any meeting, and the action of the majority of members present constitutes the action of the executive committee.

(9) (a) Except as required by Subsection (9)(b), appointed members of the homelessness council shall serve a term of four years.

(b) Notwithstanding the requirements of Subsection (9)(a), the appointing authority, at the time of appointment or reappointment, may adjust the length of terms to ensure that the terms of homelessness council members are staggered so that approximately half of appointed homelessness council members are appointed every two years.

(10) When a vacancy occurs in the appointed membership for any reason, the replacement is appointed for the unexpired term.

(11) (a) Except as described in Subsection (11)(b), a member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:



(i) Section 63A-3-106;  
(ii) Section 63A-3-107; and  
(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a commission member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(12) The office and the department shall provide administrative support to the homelessness council.

Section 4. Section 35A-16-401 is enacted to read:

**Part 4. Homeless Shelter Cities Mitigation Restricted Account**

**35A-16-401. Definitions.**

As used in this part:

(1) "Account" means the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(2) "Eligible municipality" means:

(a) a first-tier eligible municipality;

(b) a second-tier eligible municipality; or

(c) a third-tier eligible municipality.

(3) "Eligible service" means any service that mitigates the impacts of the location of an eligible shelter, as further defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) "Eligible shelter" means:

(a) for a first-tier eligible municipality, a homeless shelter that:

(i) has the capacity to provide temporary shelter to at least 80 individuals per night, as verified by the office;

(ii) operates year-round; and

(iii) is not subject to restrictions that limit the hours, days, weeks, or months of operation;

(b) for a second-tier municipality, a homeless shelter that:

(i) has the capacity to provide temporary shelter to at least 25 individuals per night, as

verified by the office;

(ii) operates year-round; and

(iii) is not subject to restrictions that limit the hours, days, weeks, or months of operation; and

(c) for a third-tier eligible municipality, a homeless shelter that:

(i) has the capacity to provide temporary shelter to at least 50 individuals per night, as verified by the office;

(ii) operates for no less than three months and no more than six months each year; and

(iii) is not subject to restrictions that limit the hours, days, or weeks of operation during the months in which the homeless shelter operates.

(5) "First-tier eligible municipality" means a municipality that:

(a) is located within a county of the first or second class;

(b) has or is proposed to have an eligible shelter within the municipality's geographic boundaries;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a first-tier eligible municipality in accordance with Section [35A-16-404](#).

(6) "Homeless shelter" means a facility that provides or is proposed to provide temporary shelter to homeless individuals.

(7) "Municipality" means a city, town, or metro township.

(8) "Second-tier eligible municipality" means a municipality that:

(a) is located within a county of the third, fourth, fifth, or sixth class;

(b) has or is proposed to have an eligible shelter within the municipality's geographic boundaries;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a second-tier eligible municipality in accordance with Section [35A-16-404](#).

(9) "Third-tier eligible municipality" means a municipality that:

(a) is located within any county;

(b) has or is proposed to have an eligible shelter within the municipality's geographic boundaries;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a third-tier eligible municipality in accordance with Section 35A-16-404.

Section 5. Section **35A-16-402**, which is renumbered from Section 35A-16-304 is renumbered and amended to read:

~~[35A-16-304].~~      **35A-16-402. Homeless Shelter Cities Mitigation Restricted Account -- Formula for disbursing account funds to eligible municipalities.**

~~[(1) As used in this section:]~~

~~[(a) "Annual local contribution" means:]~~

~~[(i) for a participating local government, the lesser of \$200,000 or an amount equal to 1.8% of the participating local government's tax revenue distribution amount under Subsection 59-12-205(2)(a) for the previous fiscal year; or]~~

~~[(ii) for an eligible municipality or a grant eligible entity that is certified in accordance with Section 35A-8-609, \$0.]~~

~~[(b) "Eligible municipality" means the same as that term is defined in Section 35A-16-305.]~~

~~[(c) "Grant eligible entity" means the same as that term is defined in Section 35A-16-306.]~~

~~[(d) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality or grant eligible entity as certified by the department in accordance with Section 35A-16-307.]~~

~~[(2)]~~ (1) There is created a restricted account within the General Fund known as the Homeless Shelter Cities Mitigation Restricted Account.

~~[(3)]~~ (2) The account shall be funded by:

(a) local sales and use tax revenue deposited into the account in accordance with Section 59-12-205; and

(b) interest earned on the account.

~~[(4)(a)]~~ (3) The office shall administer the account.

338 ~~[(b) Subject to appropriation, the office shall disburse funds from the account to:]~~

339 ~~[(i) eligible municipalities in accordance with Sections [35A-16-305](#) and [63J-1-802](#);~~

340 ~~and]~~

341 ~~[(ii) grant eligible entities in accordance with Sections [35A-16-306](#) and [63J-1-802](#).]~~

342 (4) (a) Subject to the availability of funds, the office shall annually disburse funds from  
343 the account as follows:

344 (i) 92.5% shall be disbursed to first-tier eligible municipalities that have been approved  
345 to receive account funds under Section [35A-16-403](#), of which:

346 (A) 70% of the amount described in Subsection (4)(a)(i) shall be disbursed  
347 proportionately among applicants based on the total number of homeless individuals served by  
348 eligible shelters within each municipality, as verified by the office;

349 (B) 20% of the amount described in Subsection (4)(a)(i) shall be disbursed  
350 proportionately among applicants based on the total number of homeless individuals served by  
351 eligible shelters within each municipality as compared to the total population of the  
352 municipality, as verified by the office; and

353 (C) 10% of the amount described in Subsection (4)(a)(i) shall be disbursed  
354 proportionately among applicants based on the total capacity of all eligible shelters within each  
355 municipality, as verified by the office;

356 (ii) 2.5% shall be disbursed to second-tier eligible municipalities that have been  
357 approved to receive account funds under Section [35A-16-403](#), of which:

358 (A) 70% of the amount described in Subsection (4)(a)(ii) shall be disbursed  
359 proportionately among applicants based on the total number of homeless individuals served by  
360 eligible shelters within each municipality, as verified by the office;

361 (B) 20% of the amount described in Subsection (4)(a)(ii) shall be disbursed  
362 proportionately among applicants based on the total number of homeless individuals served by  
363 eligible shelters within each municipality as compared to the total population of the  
364 municipality, as verified by the office; and

365 (C) 10% of the amount described in Subsection (4)(a)(ii) shall be disbursed  
366 proportionately among applicants based on the total capacity of all eligible shelters within each  
367 municipality, as verified by the office; and

368 (iii) 5% shall be disbursed to third-tier eligible municipalities that have been approved

to receive account funds under Section 35A-16-403, of which:

(A) 70% of the amount described in Subsection (4)(a)(iii) shall be disbursed proportionately among applicants based on the total number of homeless individuals served by eligible shelters within each municipality, as verified by the office;

(B) 20% of the amount described in Subsection (4)(a)(iii) shall be disbursed proportionately among applicants based on the total number of homeless individuals served by eligible shelters within each municipality as compared to the total population of the municipality, as verified by the office; and

(C) 10% of the amount described in Subsection (4)(a)(iii) shall be disbursed proportionately among applicants based on the total capacity of all eligible shelters within each municipality, as verified by the office;

(b) In disbursing funds to first-tier municipalities under Subsection (4)(a)(i), the maximum amount of funds that the office may disburse each year to a single first-tier municipality may not exceed the greater of:

(i) \$2,750,000; or

(ii) 25% of the total amount of funds disbursed under Subsection (4)(a)(i).

(c) The office may disburse funds to a third-tier municipality under Subsection (4)(a)(iii) regardless of whether the municipality receives funds under Subsection (4)(a)(i) as a first-tier municipality or funds under Subsection (4)(a)(ii) as a second-tier municipality.

Section 6. Section **35A-16-403**, which is renumbered from Section 35A-16-305 is renumbered and amended to read:

**~~[35A-16-305].~~      35A-16-403. Eligible municipality application process for Homeless Shelter Cities Mitigation Restricted Account funds.**

~~[(1) As used in this section:]~~

~~[(a) "Account" means the restricted account created in Section 35A-16-304.]~~

~~[(b) "Eligible municipality" means a city of the third, fourth, or fifth class, a town, or a metro township that:]~~

~~[(i) has, or is proposed to have, a homeless shelter within the city's, town's, or metro township's geographic boundaries;]~~

~~[(ii) due to the location of a homeless shelter within the city's, town's, or metro township's geographic boundaries, needs more public safety services than the city, town, or~~

~~metro township needed before the location of the homeless shelter within the city's, town's, or metro township's geographic boundaries; and]~~

~~[(iii) is certified as an eligible municipality in accordance with Section 35A-16-307.]~~

~~[(c) "Homeless shelter" means a facility that:]~~

~~[(i) provides or is proposed to provide temporary shelter to homeless individuals;]~~

~~[(ii) has or is proposed to have the capacity to provide temporary shelter to at least 200 individuals per night; and]~~

~~[(iii) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation.]~~

~~[(d) "Public safety services" means law enforcement, emergency medical services, and fire protection.]~~

~~[(2) (a) An eligible municipality may request account funds to employ and equip additional personnel to provide public safety services in and around a homeless shelter within the eligible municipality's geographic boundaries.]~~

~~[(b) (i) An eligible municipality that builds or has proposed to build a homeless shelter on or after July 1, 2018, shall be eligible to receive at least 40% of the account funds, if the eligible municipality meets the requirements of this section.]~~

~~[(ii) An eligible municipality that built a homeless shelter on or before June 30, 2018, shall be eligible to receive at least 20% of the account funds, if the eligible municipality meets the requirements of this section.]~~

(1) Subject to the availability of funds, an eligible municipality may apply for account funds to mitigate the impacts of the location of an eligible shelter through the provision of eligible services within the eligible municipality's boundaries.

~~[(3)]~~ (2) (a) This Subsection ~~[(3)]~~ (2) applies to a fiscal year beginning on or after July 1, ~~[2019]~~ 2022.

(b) (i) The homelessness council shall set aside time on the agenda of a homelessness council meeting that occurs on or after July 1 and on or before November 30 to allow an eligible municipality to present a request for account funds for the next fiscal year.

(ii) An eligible municipality may present a request for account funds by:

(A) sending an electronic copy of the request to the homelessness council before the meeting; and

(B) appearing at the meeting to present the request.

(c) The request described in Subsection ~~[(3)(b)]~~ (2)(b)(ii) shall contain:

~~[(i) data relating to the eligible municipality's public safety services for the last fiscal year before a homeless shelter was located or proposed to be located within the eligible municipality's boundaries, including:]~~

~~[(A) crime statistics; and]~~

~~[(B) calls for public safety services;]~~

~~[(ii) data showing the eligible municipality's need for public safety services in the next fiscal year;]~~

~~[(iii) a summary of the eligible municipality's proposed use of account funds; and]~~

~~[(iv) a copy of the eligible municipality's budget, which includes a request in a specific amount for additional personnel to provide public safety services;]~~

(i) a proposal outlining the need for eligible services, including a description of each eligible service for which the eligible municipality requests account funds;

(ii) a summary of the eligible municipality's proposed use of any account funds received; and

(iii) the amount of account funds requested.

(d) (i) On or before November 30, an eligible municipality that received account funds during the previous fiscal year shall file electronically with the homelessness council a report that includes:

(A) a summary of the amount of account funds that the eligible municipality expended and the eligible municipality's specific use of those funds;

(B) an evaluation of the eligible municipality's effectiveness in using the account funds to address the eligible municipality's ~~[public safety]~~ needs due to the location of an eligible shelter; and

(C) any proposals for improving the eligible municipality's effectiveness in using account funds that the eligible municipality may receive in future fiscal years.

(ii) The homelessness council may request additional information as needed to make the evaluation described in Subsection ~~[(3)]~~ (2)(e).

(e) The homelessness council shall evaluate a request made in accordance with this Subsection ~~[(3)]~~ (2) using the following factors:

462 (i) the strength ~~[and reliability of the data]~~ of the proposal that the eligible municipality  
463 provided to support the request;

464 (ii) if the eligible municipality received account funds during the previous fiscal year,  
465 the efficiency with which the eligible municipality used any account funds during the previous  
466 fiscal year;

467 (iii) the availability of funding for the eligible municipality as provided in Subsection  
468 35A-16-402(4);

469 ~~[(iii)]~~ (iv) the availability of alternative funding for the eligible municipality to address  
470 the eligible municipality's ~~[need for public safety services]~~ needs due to the location of an  
471 eligible shelter; [and]

472 (v) whether the eligible municipality enacts and enforces an ordinance that prohibits  
473 camping; and

474 ~~[(iv)]~~ (vi) any other considerations identified by the homelessness council.

475 (f) (i) After making the evaluation described in Subsection ~~[(3)(e) and subject to other~~  
476 ~~provisions of this Subsection (3)(f)]~~ (2)(e), the homelessness council shall vote to ~~[recommend~~  
477 ~~that]~~ either approve or deny an eligible municipality's request ~~[be:]~~ for account funds.

478 ~~[(A) funded as requested; or]~~

479 ~~[(B) funded at a reduced level, as determined by the homelessness council.]~~

480 (ii) The homelessness council shall support the ~~[recommendation described in~~  
481 ~~Subsection (3)(f)(i)]~~ homelessness council's decision under Subsection (2)(f)(i) with findings  
482 on each of the factors described in Subsection ~~[(3)]~~ (2)(e).

483 ~~[(g) The committee shall submit the recommendation described in Subsection (3)(f)~~  
484 ~~to:]~~

485 ~~[(i) the governor for inclusion in the governor's budget to be submitted to the~~  
486 ~~Legislature; and]~~

487 ~~[(ii) the Social Services Appropriations Subcommittee of the Legislature for approval~~  
488 ~~in accordance with Section 63J-1-802.]~~

489 ~~[(h) (i) An eligible municipality that is approved to receive account funds under~~  
490 ~~Section 63J-1-802 shall submit an invoice of the eligible municipality's expenses, with~~  
491 ~~supporting documentation, to the office monthly for reimbursement.]~~

492 ~~[(ii) Each month, the office shall disburse the revenue in the account to reimburse an~~



eligible municipality that submits the information described in Subsection (3)(h)(i) for the amount on the invoice or contract.]

(g) If the homelessness council approves an eligible municipality's request to receive account funds under Subsection (2)(f), the office, subject to the availability of funds, shall:

(i) calculate the amount of funds that the eligible municipality may receive under Subsection 35A-16-402(4); and

(ii) subject to final approval by the homelessness council, disburse the amount described in Subsection (2)(g)(i) to the eligible municipality.

[~~(4)~~] (3) On or before October 1, the coordinator, in cooperation with the homelessness council, shall:

(a) submit an annual written report electronically to the Social Services Appropriations Subcommittee of the Legislature that gives a complete accounting of the office's disbursement of the money from the account under this section for the previous fiscal year; and

(b) include information regarding the disbursement of money from the account under this section in the annual report described in Section 35A-1-109.

(4) In accordance with Title 63G, Chapter 3, Administrative Rulemaking Act, the office shall make rules governing the process for calculating the amount of funds that an eligible municipality may receive under Subsection 35A-16-402(4).

Section 7. Section 35A-16-404, which is renumbered from Section 35A-16-307 is renumbered and amended to read:

~~[35A-16-307].~~ **35A-16-404. Certification of eligible municipality.**

(1) The office shall certify each year, on or after July 1 and before the first meeting of the homelessness council after July 1, the ~~[cities or towns]~~ municipalities that meet the requirements of an eligible municipality ~~[or a grant eligible entity]~~ as of July 1.

(2) On or before October 1, the office shall provide a list of the ~~[cities, towns, or metro townships]~~ municipalities that the office has certified as meeting the requirements of an eligible municipality ~~[or a grant eligible entity]~~ for the year to the State Tax Commission.

Section 8. Section 35A-16-501 is enacted to read:

## **Part 5. Overflow Plan Requirements**

**35A-16-501. Definitions.**

As used in this part:

(1) "Applicable county" means a county of the first class.

(2) "Capacity limit" means a limit as to the number of homeless individuals that a homeless resource center may provide overnight shelter to.

(3) "Council of governments" means the same as that term is defined in Section 72-2-117.5.

(4) "Homeless resource center" means a facility that:

(a) is located within an applicable county;

(b) provides temporary shelter to homeless individuals;

(c) has the capacity to provide temporary shelter to at least 200 individuals per night;

(d) operates year-round; and

(e) is not subject to restrictions that limit the hours, days, weeks, or months of operation.

(5) "Municipality" means a city, town, or metro township.

(6) "Overflow period" means the period beginning October 1 and ending April 30 of the following year.

(7) "Overflow plan" means the plan described in Section 35A-16-502.

(8) "State facility" means the same as that term is defined in Section 63A-5b-1001.

(9) "Subsequent overflow period" means the overflow period that begins on October 1 of the year in which the office sends a notice of noncompliance under Section 35A-16-503.

(10) "Temporary overflow shelter" means a facility that:

(a) provides temporary emergency shelter to homeless individuals during an overflow period; and

(b) does not operate year-round.

Section 9. Section **35A-16-502** is enacted to read:

**35A-16-502. Overflow plan required -- Contents -- Review.**

(1) On or before September 1 of each year, a council of governments of a county of the first class shall prepare and submit to the office an overflow plan in coordination with the local homeless council for the applicable county, as designated by the Utah Homeless Network.

(2) The overflow plan shall:

(a) establish plans for the operation of one or more temporary overflow shelters within the applicable county during the subsequent overflow period;

(b) ensure that each temporary overflow shelter described in Subsection (2)(a) will meet all local zoning requirements before beginning operations;

(c) provide assurances that homeless individuals in the applicable county will have sufficient access to shelter during the subsequent overflow period; and

(d) be approved by:

(i) the entities described in Subsection (1); and

(ii) the chief executive officer of each municipality located within the applicable county in which a temporary overflow shelter is planned to be located under the overflow plan.

(3) Within 10 days after the day on which the office receives an overflow plan under this section, the office shall, in accordance with Subsection 35A-16-503(1), complete a review of the overflow plan to determine if the overflow plan is in compliance with this section.

Section 10. Section **35A-16-503** is enacted to read:

**35A-16-503. Determination of noncompliance for applicable county --**

**Consequences.**

(1) The office shall make a determination of noncompliance under Section 35A-16-502 if:

(a) after completing a review of an overflow plan, the office determines that the overflow plan does not meet the requirements of Section 35A-16-502; or

(b) a council of governments of a county of the first class fails to submit an overflow plan as provided in Section 35A-16-502.

(2) No later than five days after the day on which the office makes a determination of noncompliance under Subsection (1), the office shall send a notice of noncompliance to:

(a) the entities described in Subsection 35A-16-502(1); and

(b) the legislative body of each municipality located within the applicable county.

(3) If the office makes a determination of noncompliance under Subsection (1) and sends a notice of noncompliance in accordance with Subsection (2), the following provisions apply within the applicable county during the subsequent overflow period:

(a) in accordance with Section 10-8-52.5, a municipality located within the applicable county may not:

(i) impose a capacity limit on a homeless resource center that is more restrictive than the capacity limit allowed under the applicable fire code; or

(ii) restrict an entity from operating a temporary overflow shelter from a facility owned or operated by the entity;

(b) a homeless resource center may provide overnight shelter to any number of homeless individuals to the extent allowed under the applicable fire code; and

(c) the office may contract with a for-profit or nonprofit entity to operate a temporary overflow shelter from a state facility:

(i) in coordination with the Division of Facilities Construction and Management; and

(ii) in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

Section 11. Section **35A-16-504** is enacted to read:

**35A-16-504. Rules.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules governing:

(1) the process of submitting an overflow plan under Section [35A-16-502](#);

(2) the process for determining whether an overflow plan complies with Section [35A-16-502](#);

(3) the process of sending a notice of noncompliance under Subsection [35A-16-503](#)(2);  
and

(4) the process for contracting with a for-profit or nonprofit entity to operate a temporary overflow shelter from a state facility under Subsection [35A-16-503](#)(3)(c).

Section 12. Section **59-12-205** is amended to read:

**59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.**

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section [59-12-204](#), a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) Except as provided in Subsections (3) through (5) and subject to Subsection (6):

(a) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population

of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(b) (i) except as provided in Subsections (2)(b)(ii) and (iii), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215;

(ii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201; and

(iii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201.

(3) (a) Beginning on July 1, 2017, and ending on June 30, 2022, the commission shall distribute annually to a county, city, or town the distribution required by this Subsection (3) if:

(i) the county, city, or town is a:

(A) county of the third, fourth, fifth, or sixth class;

(B) city of the fifth class; or

(C) town;

(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;

(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for one or more days during

the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.

(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):

(i) from the distribution required by Subsection (2)(a); and

(ii) before making any other distribution required by this section.

(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by \$333,583.

(ii) For purposes of Subsection (3)(c)(i):

(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and

(B) the denominator of the fraction is \$333,583.

(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.

(4) (a) As used in this Subsection (4):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (4)(b) equal to the amount described in Subsection (4)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1,

2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(5) (a) For purposes of this Subsection (5):

(i) "Annual local contribution" means the lesser of \$200,000 or an amount equal to 1.8% of the participating local government's tax revenue distribution amount under Subsection (2)(a) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section [10-1-104](#), that is not an eligible municipality [~~or grant eligible entity~~] certified in accordance with Section [~~35A-16-307~~] [35A-16-404](#).

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a) to a participating local government, shall:

(i) subtract one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution under Subsection (2)(a); and

(ii) deposit the amount described in Subsection (5)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section [~~35A-16-304~~] [35A-16-402](#).

(c) For a participating local government that qualifies to receive a distribution described in Subsection (3) or (4), the commission shall apply the provisions of this Subsection (5) after the commission applies the provisions of Subsections (3) and (4).

(6) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 13. **Repealer.**

This bill repeals:

Section **35A-16-306**, Grant eligible entity application process for Homeless Shelter Cities Mitigation Restricted Account funds.

Section **63J-1-801**, Definitions.

Section **63J-1-802**, Submission of council recommendations -- Adoption, procedure, and approval -- Appropriation.

Section 14. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 4, 2022.

(2) (a) The actions affecting the following sections take effect on July 1, 2022:

(i) Section 35A-16-203;

(ii) Section 35A-16-306;

(iii) Section 35A-16-401;

(iv) Section 35A-16-402;

(v) Section 35A-16-403;

(vi) Section 35A-16-404;

(vii) Section 63J-1-801; and

(viii) Section 63J-1-802.

(b) The actions affecting Section 59-12-205 take effect for a taxable year beginning on or after January 1, 2023.